

NATIONAL LABOR RELATIONS BOARD, )  
 )  
 Petitioner, ) Case No. 1:17-mc-18  
 )  
 v. )  
 )  
 COBALT COAL, LTD., )  
 WESTCHESTER COAL LP, )  
 COBALT COAL CORP. MINING, INC., )  
 )  
 Respondents. )  
 )

The National Labor Relations Board (“NLRB”), by and through its undersigned counsel, and pursuant to this Court’s Order [ECF No. 17], hereby files its application for attorney fees in the instant matter.<sup>1</sup> In support of its application, the NLRB relies upon the attached Supplemental Declaration of Paul A. Thomas. As detailed therein, attorney Thomas expended 21.2 recoverable hours of time attributable to Cobalt’s failure to comply with its discovery obligations, of which 14.4 hours are attributable to the 2017-2018 period and 6.8 hours are attributable to the 2018-19 period. USAO Attorney’s Fees Matrix – 2015-2017, available at <https://www.justice.gov/usao-dc/file/796471/download> (last visited Sept. 14, 2018).

<sup>1</sup> Other costs associated with the prosecution of the NLRB's Motion to Compel—principally postage costs-- are *de minimis* and would cost more to identify than could be recovered.

basis of prevailing market rates.<sup>2</sup> The rate requested by the Board in the instant request is based on the hourly rate set forth in the “Laffey Matrix”, cited above, which is in turn based upon the rates allowed by the District Court in *Laffey v. Northwest Airlines, Inc.*, 572 F.Supp. 354 (D.D.C. 1983), *aff’d in part, rev’d in part on other grounds*, 746 F.2d 4 (D.C. Cir. 1984). The rate in the Laffey Matrix for the work performed upon the instant motion prior to May 31, 2018 is \$352 per hour for an attorney who, like Mr. Thomas, possesses 5-7 years of experience. The rate in the Laffey Matrix for work performed after May 31, 2018 is \$358 per hour.

Accordingly, the Board requests the imposition of attorney fees in the amount of  $\$352 \times 14.4 + \$358 \times 6.8 = \$7503.20$ .

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<sup>2</sup> See, e.g., *Wisconsin v. Hotline Industries, Inc.*, 236 F.2d 363, 366 (7<sup>th</sup> Cir. 2000)(and cases cited); *NLRB v. A.G.F. Sports Ltd.*, 146 LRRM 3022, 3023 (E.D.N.Y. 1994)(“it is established law in this Circuit that government attorneys may be reimbursed at the prevailing market rate”). *Accord NLRB v. Gravely Bros. Roofing*, 162 LRRM 2841 (3d Cir. 1999) (“a government attorney is entitled to the same market rate fees as any other attorney with the same market rates as any other attorney with the same experience and expertise.”).

Respectfully submitted,

**NATIONAL LABOR RELATIONS BOARD**

Dated: September 27, 2018

/s/ Paul A. Thomas

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